

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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KAZEEM A. ATANDA,

Plaintiff,

18-CV- 902 ( ) ( )

**NOTICE OF REMOVAL  
PURSUANT TO 28 U.S.C.  
§ 1441**

-against-

THE CITY OF NEW YORK,  
NEW YORK POLICE DEPARTMENT, THE PORT  
AUTHORITY OF NEW YORK AND NEW JERSEY,  
POLICE OFFICERS JOHN AND JANE "DOE" 1, 2, 3

Defendants.  
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TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK:

**PLEASE TAKE NOTICE** that as provided by Title 28, U.S. Code, Chapter 89, defendant,  
The Port Authority of New York and New Jersey ("Port Authority"), by and through their  
undersigned attorney, hereby files this Notice of Removal of the above-described action to the  
United States District Court for the Eastern District of New York from the Supreme Court of the  
State of New York, County of Kings, where the action is now pending under Index No:  
524809/2017.

**PLEASE TAKE FURTHER NOTICE**, the Port Authority, hereby states that it has not  
yet filed an Answer to the Complaint in this matter and reserves its right under Fed. R. Civ. P.  
81(c)(2) to file an Answer to the Complaint in the United States District Court for the Eastern  
District of New York, and further states:

1. The above-entitled action was commenced in the Supreme Court of the State of New York, County of Kings on December 26, 2017 and is now pending in that court. The Port Authority was served with a copy of the Summons and Complaint on January 23, 2018.

2. In accordance with 28 U.S.C. §1446(a), a copy of all process, pleadings and orders received by the Port Authority are attached as **Exhibit A**. The other named defendants in this action are The City of New York, New York Police Department,<sup>1</sup> and fictitiously named police officer defendants John and Jane "Doe" 1,2,3.

3. Defendant City of New York received a copy of the Summons and Complaint on or about 9, 2018. Defendant City of New York has consented to the removal of this case to Federal Court. See Joinder in Removal, attached as **Exhibit B**.

4. This action was commenced against defendants in the Supreme Court of the State of New York, County of Kings by the plaintiff, and is of a civil nature alleging violations of the plaintiff's constitutional and civil rights seeking redress under First, Fourth, Fifth, Eighth, and Fourteenth Amendments; Title 28 U.S.C. Sections 1331, 1343, 1367 and 2002; and Title 42 U.S.C. Section 1982, 1983, and 1985. The plaintiff alleges that, among other acts, he was subjected to a false arrest, false imprisonment, malicious prosecution, negligence and assault. According to the Complaint, the alleged violations occurred at John F. Kennedy International Airport, in the County of Queens, State of New York.

5. The United States District Court for the Eastern District of New York has

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<sup>1</sup> Under the New York City Charter, any "violation of any law shall be brought in the name of the city of New York and not in that of any agency, except where otherwise provided by law." N.Y.C. Charter § 396. The New York Police Department is not a legal entity, and therefore should not be named as a party to a lawsuit. Davis v. City of New York, 2000 WL 1877045 (S.D.N.Y.).

jurisdiction by reason of 28 U.S.C. §1331 in that the action arises under the Laws of the United States, as it appears from the Complaint that the plaintiff bases claims for relief against the defendants on and under the United States Constitution and federal statutes. To the extent the Complaint alleges, state common law or other non-federal claims, this Court has supplemental jurisdiction over any such claims under 28 U.S.C. § 1367 because those claims arise out of the same operative facts as plaintiff's federal claims and form part of the same case or controversy.

6. Venue is proper in this Court pursuant to 28 U.S.C. §1441(a), because the United States District Court for the Eastern District of New York, is the federal judicial district embracing the Supreme Court of the State of New York, County of Kings where the State Court Action was originally filed.

7. This action was commenced by the filing of the Complaint on September 20, 2017. As stated above, process was lawfully served on the Port Authority on January 23, 2018. The time has not elapsed within which the Port Authority is allowed to file this notice of removal of action to this Court. A copy of all process and pleadings served upon the Port Authority accompanies this notice.

8. In accordance with 28 U.S.C. § 1446(d), the filing of a copy of this notice with the County Clerk and Clerk of the Supreme Court of the State of New York, County of Kings shall give that court notice of the removal and the Supreme Court of the State of New York shall proceed no further with respect to the action, unless and until the case is remanded thereto.

**WHEREFORE**, the Port Authority respectfully requests that this action, previously pending in the Supreme Court of the State of New York, County of Kings, proceed in this Court as an action properly removed to it and that this Court enter such other and further orders as may be necessary to accomplish the requested removal.

Dated: New York, New York  
February 8, 2018

Respectfully submitted,  
THE PORT AUTHORITY LAW  
DEPARTMENT

By: 

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CC:

**VIA NYSCEF and FEDEX**  
County Clerk and Clerk of the Supreme Court  
of the State of New York, Kings County  
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